IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO. 154 OF 2006

Unitech Limited... .. Applicant.
Versus
M/s. Anand Shree (Bombay)
Holdings Pvt.Ltd.... .... Respondent.

-: ALONG WITH :-

ARBITRATION APPLICATION NO. 39 OF 2007

Somdatt Construction Co.... .. Applicant.
Versus
M/s. Anand Shree (Bombay)
Holdings Pvt.Ltd.... .... Respondent.

Ms.Manisha Chandwani i/by M/s.Juris Consultus
for the Applicants.
Mr.N.G.Thakkar, Sr. Counsel i/by M/s.Markand Gandhi
& Co., for the Respondents.

CORAM : SWATANTER KUMAR, C.J.
DATED : 4TH AUGUST, 2007.

P.C.:

The above applicants have approached this Court under Section 11(6) of the Arbitration and Conciliation Act, 1996 praying that the Court may appoint a Sole Arbitrator for adjudication of the disputes that have arisen between the parties as the respondents have failed to act in accordance with the arbitration clause despite service of a notice dated 13th February, 2006.

2. These applications were opposed by the respondents inter alia on the ground that the claims were barred by time and also the requisite notice as contemplated under the provisions of the Act was not served upon the respondents. It was also stated that the Memorandums of Understanding on which the applicants rely were terminated and thus there is no subsisting cause of action.

3. However, during the course of arguments, learned Counsel for the parties accepted that they would be agreeable to the appointment of a Sole Arbitrator. It is further stated that the appointment of a Sole Arbitrator, in any case, would be in consonance with the terms of the arbitration clause. The agreement of the parties is, ofcourse, without prejudice to their rights and contentions and liberty to raise all objections as are permissible to them in law and particularly under the provisions of Section 16 of the Arbitration and Conciliation Act, 1996.

4. With the agreement of the learned Counsel appearing for the parties, Honourable Mr. Justice S. P. Bharucha (Former Chief Justice of India) is appointed as the Sole Arbitrator.

5. The parties may approach the learned Arbitrator

for further directions in the matter. The parties are at liberty to file their claim / counter claim before the learned Arbitrator in accordance with law. The parties are also at liberty to raise all objections available to them including the objection under Section 16 of the Arbitration and Conciliation Act, 1996.

6. The arbitration applications are disposed of in terms aforesaid, leaving the parties to bear their own costs.

Sd/-

CHIEF JUSTICE